

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**JEANINE M. McCREARY,
Plaintiff**

v.

**REDEVELOPMENT AUTHORITY OF
THE CITY OF ERIE,
Defendant**

Civil Action

Docket Number: 1:09-cv-299

**Hon. Sean J. McLaughlin
Magistrate Judge Susan Paradise
Baxter**

**DEFENDANT, REDEVELOPMENT AUTHORITY OF THE CITY OF ERIE'S,
EXCEPTIONS TO REPORT AND RECOMMENDATION**

AND NOW, comes the Defendant, the Redevelopment Authority of the City of Erie (the "Authority"), by and through its counsel, Quinn, Buseck, Leemhuis, Toohey & Kroto, Inc., and files the within Exceptions to the Report and Recommendation of the Magistrate Judge, of which the following is a statement:

1. The Defendant's sole exception to the August 25, 2010 Report and Recommendation of Magistrate Judge Susan Paradise Baxter concerns her recommendation that the Authority's Motion for Sanctions Pursuant to Fed.R.Civ.P. Rule 11 be denied.¹
2. The Authority satisfied all procedural, "safe harbor," provisions of Rule 11.
3. McCreary, through her counsel, failed to withdraw her Complaint within the time allowed.
4. To the contrary, McCreary filed a Motion to Amend which addressed none of the issues raised in the Authority's Motion for Sanctions, opposed the Authority's

¹ The Authority hereby incorporates by reference its Motion for Rule 11 Sanctions (Doc. # 21) and Brief in Support (Doc. #22) in support of this exception.

Motion to Dismiss, and then filed four (4) additional motions, none of which had any basis in law or fact, and all of which were subsequently dismissed by the Magistrate Judge, *sua sponte*.

5. In addressing the Authority's Motion to Dismiss, the Magistrate Judge did not find a single instance in which McCreary's position was supported by either law or fact, but rather recommended the dismissal of McCreary's claims in their entirety for the specific reason raised in the Authority's Motion to Dismiss and outlined in its Motion for Sanctions.

6. Despite this, the Magistrate Judge denied the Authority's Motion for Sanctions without comment or discussion.

WHEREFORE, as the denial of the Authority's Motion for Sanctions would appear to be inconsistent with the Magistrate Judge's ruling on the merits, the Authority takes exception to this finding and asks that this Honorable Court reject this limited portion of the Report and Recommendation and grant the Authority's Motion for Sanctions (Doc. #21).

Respectfully submitted,

QUINN, BUSECK, LEEMHUIS, TOOHEY
& KROTO, INC.

By /s/Arthur D. Martinucci

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